

REMARKS

Claims 1-25 are pending in the present application.

The Examiner has required election in the present application between:

Group I, claims 1-2, 8-13, 15, 21 and 22, drawn to a switch destination such that data of high preference score has high probability;

Group II, claims 3, 4, 24 and 25, drawn to a switch destination such that data of low preference score has high probability;

Group III, claim 5, drawn to a preference score limit setting unit setting a lower limit of preference score;

Group IV, claim 6, drawn to a preference score limit setting unit setting a higher limit of preference information;

Group V, claim 7, drawn to a new arrival information obtaining unit obtaining new arrival information;

Group VI, claims 16-19, drawn to a data output time determining unit determining time of data output by said output unit;

Group VII, claim 20, drawn to a control signal for switching data to be output by said output apparatus from the data that is being output at present to data as said switch destination different from said data that is being output, wherein said switch destination data determining unit determines probability of data to be said switch destination such that data of high preference score has high probability, based on the result of counting of the preference score by said preference score counting unit; and

Group VIII, claim 23, drawn to a control signal for switching data to be output by said output apparatus from the data that is being output at present to data as said switch destination different from said data that is being output, wherein said switch destination data determining unit determines probability of data to be said switch destination such that data of low preference score has high probability, based on the result of counting of the preference score by said preference score counting unit.

**For the purpose of examination of the present application, Applicants elect, with traverse, Group I, Claims 1-2, 8-13, 15, 21 and 22.**

It is respectfully submitted that the Restriction Requirement is improper in view of the fact that no serious burden is presented to the Examiner to consider all of the claims in a single application.

As set forth in § 803 of the MPEP, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Two criteria are identified for proper requirement for restriction:

- 1) The inventions must be independent or distinct as claimed; and
- 3) There must be a serious burden on the Examiner if the restriction is not required.

Applicants respectfully submit that a serious burden has not been placed on the Examiner to consider all of the claims in a single application. A review of the subject matter set forth in the claims would have an overlapping search. Thus, a different field of search really does not exist with regard to the claims of the present application.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisin, Registration No 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: February 9, 2009

Respectfully submitted,

By   
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